

REMARKS

1. Status of the Claims

Claims 1-10 stand pending. Claims 1-10 are subject to the Restriction/Election Requirement. Applicants presently amend claim 10 to more precisely recited claimed subject matter. Support of the amendment can be found at least, for example, from page 18, line 22 to page 19, line 23 of the Specification. Applicants submit that no prohibited new matter has been introduced by entry of the amendment.

2. Multiple Time Periods Running and Request to Withdraw the January 7, 2009, Office Action

As noted above, the Office earlier issued an Office Action on January 7, 2009, which set a final deadline for response of July 7, 2009. See Office Action Summary, M.P.E.P. 710.01(a). Because the grounds for restriction/election are the same in that Office Action and the present Office Action, Applicants' present response is believed to respond fully to both Office Actions. Withdrawal of the January 7, 2009 Office Action from the record is respectfully requested.

3. Restriction Requirement

The Office alleges that the present application contains the following inventions or groups of inventions:

Group I, claims 1-9, drawn to a composition comprising 2-O-(beta-D-glucopyranosyl) ascorbic acid; and

Group II, claim 10, drawn to an agent comprising a koji mold.

Office Action, page 2. The Office requires the election of a single group. Office Action, page 3.

4. Election with Traverse

Applicants elect **Group I**, claims 1-9, for further prosecution *with traverse*. Claim 10, amended herein to be directed to a method comprising applying the composition of claim 1, *is directed to non-elected subject matter*.

Applicants traverse for the rejoinder of claim 10, as amended, on the following grounds:

4.1 Special technical features are present between Group I (claims 1-9) and Group II (claim 10)

Upon entry of the present claim amendments, the presently amended claim 10 recites a method applying the composition as recited in claim 1. Applicants submit that claim 10 as amended is directed to non-elected subject matter. Nevertheless, claim 10 and claims 1-9 share common special technical features.

Each of claims 1-9 and presently amended claim 10 recites a composition comprising *both* the “ascorbic acid” element *and* the “koji” element. Accordingly, *all* claims share at least two special technical features—both the ascorbic acid element and the koji element.

Accordingly, Applicants respectfully request that the Office reconsider in view of the present amendments and response, and withdraw the Restriction/Election Requirement.

4.2 The Office is reminded of the rejoinder practice

In case the Office maintains the restriction/election requirement, the Office is reminded that claim 10 as amended is directed to a method applying the composition as recited in claim 1. The presently amended claim 10 requires all the limitations of claim 1, which is a composition claim. Accordingly, claim 10 is eligible for rejoinder under 37 C.F.R. § 1.475 should Group I claims (claims 1-9) be allowed.

CONCLUSION

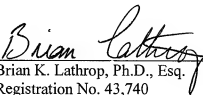
Should the Examiner have any questions or comments regarding Applicants' amendments or response, please contact Applicants' undersigned representative at (202) 842-8862. Furthermore, please direct all correspondence to the below-listed address.

In the event that the Office believes that there are fees outstanding in the above-referenced matter and for purposes of maintaining pendency of the application, the Office is authorized to charge the outstanding fees to Deposit Account No. 50-0573. The Office is likewise authorized to credit any overpayment to the same Deposit Account Number.

Respectfully Submitted,

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By: _____


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